

REMARKS

This Response is submitted in reply to the Office Action mailed on October 17, 2007. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-509 on the account statement.

Claims 1-34 were previously canceled. Claims 35-68 are pending. In the Office Action, Claims 35-68 are rejected under 35 U.S.C. §112 and 35 U.S.C. §103. In response, Applicants have amended Claims 35, 37, 52 and 67 and canceled Claims 36 and 53. The amendments do not add new matter. In view of the amendments and for the reasons set forth below, Applicants respectfully request that the rejections be withdrawn.

In the Office Action, Claims 35-68 are rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for a method of improving or maintaining absorption of vitamin E in a pet comprising feeding the pet with a specific composition comprising intestinal function promoter, pancreatic function promoter and liver function promoter, does not reasonably provide enablement for any edible composition that affects the pet's lipid absorption capacity. The Office Action further asserts that the specification fails to provide how to make/use any kind of edible composition that effects lipid absorption activity, with no specific recitation of specific ingredients, without undue experimentation. See, Office Action, page 3, line 21 to page 4, line 4.

Claim 61 and amended Claims 35 and 52 recite, in part, an edible composition comprising a component selected from the group consisting of pancreatic function promoters, liver function-promoters, intestinal mucosa function promoters and combinations thereof. Support for the amendments can be found in the specification at page 4, lines 1-12. Moreover, Claim 67 recites, in part, a diet that maintains or improves the pet's lipid absorption capacity and comprises an agent selected from the group consisting of a fat emulsifier or fat emulsification system, a fat transportation agent, an acidifying agent and combinations thereof.

In view of the above independents, Applicants submit that all of the claims meet the enablement requirement. As detailed below, the claims provide sufficient limitation to the edible composition to enable one skilled in the art to make and use the invention commensurate in scope with the amended claims.

For example, Examples 1 and 2 provide specific ingredients for a composition. Those ingredients specifically refer to pancreatic, liver and intestinal mucosa function promoters recited in the claims. See, specification, page 17, line 16 to page 19, line 20. Further, both examples establish that diets incorporating these promoters facilitate better digestion and absorption of lipids than those diets without the promoters. Finally, Figure 1 illustrates that increased lipid absorption (facilitated by the composition of the present invention) causes increased vitamin E absorption. See, specification, page 13, lines 20-27. Therefore, by clearly disclosing compositions that increase lipid absorption and disclosing the link between increased lipid and vitamin E absorption, Applicants submit that Claims 35-68 are sufficiently enabled.

In the Office Action, Claims 35-68 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Specifically, Claim 38 is rejected because the metes and bounds of “edible composition” are not defined. Moreover, Claim 37 is rejected because the specificity of “pancreatic extract” is missing.

First, Claim 38 does not recite an “edible composition.” Assuming that the Examiner meant Claim 35, Applicants respectfully submit that the amendment to Claim 35 previously discussed provides the requisite metes and bounds required by the second paragraph of 35 U.S.C. §112.

Second, Claim 37 has been amended to recite “pancreatic lipase” instead of “pancreatic composition.” The amendment is supported in the specification at page 8, lines 26-27. Therefore, Applicants submit that Claim 37 provides the requisite specificity required by the second paragraph of 35 U.S.C. §112.

Accordingly, Applicants respectfully request that the §112 rejections of Claims 35-68 be withdrawn.

In the Office Action, Claims 35-68 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,471,999 to Couzy et al. (“*Couzy*”) in view of U.S. Patent No. 5,290,571 to Bounous et al. (“*Bounous I*”) or U.S. Patent No. 5,451,412 to Bounous et al. (“*Bounous II*”) and further in view of U.S. Publication No. 2006/0052454 to Hevia (“*Hevia*”) and U.S. Patent No. 6,013,665 to DeMichele et al. (“*DeMichele*”).

Moreover, in the Office Action, Claims 35-68 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. WO 02/15719 to Fuchs, et al. ("*Fuchs*") in view of the same secondary references, namely *Bounous I* and *Bounous II* and further in view of *Hevia* and *DeMichele*.

Independent Claims 35, 52 and 61 recite, in part, an edible composition that affects the pet's lipid absorption capacity, the edible composition comprising a component selected from the group consisting of pancreatic function promoters, liver function-promoters, intestinal mucosa function promoters and combinations thereof. Amendments to Claims 35 and 62 are supported in the specification at page 4, lines 1-12. Independent Claim 67 recites a method of improving the appearance of a pet comprising the step of increasing a pet's serum vitamin E level by feeding the pet a diet that maintains or improves the pet's lipid absorption capacity and comprises an agent selected from the group consisting of a fat emulsifier or fat emulsification system, a fat transportation agent, an acidifying agent and combinations thereof. Amendment to Claims 67 is also supported in the specification at page 4, lines 1-12. Applicants respectfully submit that, even if combinable, the cited references fail to disclose or suggest every element of the present claims.

For example, *Couzy* fails to disclose or suggest an edible composition that maintains or improves the pet's lipid absorption capacity, as required, in part, by Claims 35, 52, 61 and 67. Applicants have found that in pet animals, the absorption of lipid is highly correlated with the absorption of other essential nutrients such as, for example, vitamin E. Hence, a pet with low lipid digestibility is susceptible to deficient or sub-optimal nutritional status, which can compromise its health. See, specification, page 7, lines 8-11. Therefore, in order to promote Vitamin E absorption, a composition must first improve or maintain lipid absorption.

Rather than teaching anything regarding the ability to absorb lipid, *Couzy* is directed to milk compositions that avoid or significantly reduce the gastrointestinal problems associated with the consumption of lactose. See, *Couzy*, column 2, lines 1-4. While the Office Action asserts that *Couzy* teaches a pet milk powder that reduces gastrointestinal intolerance, *Couzy* clearly attributes this intolerance to the lactose in cow's milk. See, *Couzy*, column 1, lines 32-33.

Like *Couzy* above, *Fuchs* fails to disclose or suggest an edible composition that maintains or improves the pet's lipid absorption capacity, as required, in part, by Claims 35, 52, 61 and 67. Instead, *Fuchs* is directed to a composition, comprising protein, carbohydrate and lipid sources, that provides the special nutritional requirements of those with limited appetite such as the elderly or those who have impaired ability to digest other sources of protein such as persons having chronic gastritis who have a reduced gastric pepsin digestion. See, *Fuchs*, page 2, lines 21-26. If fact, *Fuchs* teaches the incorporation of lipids into the composition without discussing the possible inability of a patient to absorb those lipids, not to mention digesting or assimilating the lipids, due to an existing disease or medical condition. See, *Fuchs*, page 8, lines 3-24.

Moreover, *Bounous I*, *Bounous II*, *Hevia* and *DeMichele* also fail to disclose or suggest an edible composition that maintains or improves the pet's lipid absorption capacity. Rather, the secondary references are directed to inventions unrelated to lipid absorption. For example, *Bounous I* and *Bounous II* are both directed to whey protein compositions comprising whey protein concentrate that function to improve humoral response, where secreted antibodies bind to antigens on the surfaces of invading microbes (such as viruses or bacteria), which flags them for destruction.

Hevia teaches lipid digestion due to bile salts. See, Office Action, page 7, lines 20-21. However, the present claims recite lipid absorption rather than lipid digestion. Applicants' specification clearly distinguishes digestion from absorption by defining "digestion" as the breaking down of a food matrix into constituent parts and defining "absorption" as the passage of products of the breaking down process (digested products) across the intestinal wall into the blood stream. See, specification, page 3, lines 7-12. Therefore, *Hevia* still fails to disclose or suggest an edible composition that maintains or improves the pet's lipid absorption capacity.

Finally, *DeMichele* teaches enhancing the absorption and transport of lipophilic compounds such as vitamin E with a combined administration of vitamin E and lecithin. However, *DeMichele* still does not teach accomplishing the enhanced absorption of vitamin E by improving overall lipid absorption capacity. As stated above, Applicants have found that a pet with low lipid digestibility is susceptible to deficient or sub-optimal nutritional status, which can compromise its health. See, specification, page 7, lines 8-11. Therefore, in order to promote Vitamin E absorption, a composition must first improve or maintain lipid absorption. *DeMichele*

never discloses improving lipid absorption. By contrast, *DeMichele* teaches a composition, which including vitamin E and structured glycerides, that avoids, rather than remedies, the effects of lipid malabsorption maladies such as Crohn's disease. See, *DeMichele*, column 7, lines 32-40.

Therefore, Applicants respectfully submit that all the cited references fail to disclose or suggest every element of the present claims. Accordingly, Applicants respectfully request that the obviousness rejections of Claims 35-68 be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit and early allowance of same.

Respectfully submitted,

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